

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-25, all of which have been rejected. By this Amendment, claims 1, 9, and 17 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USP 6,978,144 ("Choksi"), in view of USPP 2003/0134650 ("Sundar") in further view of USP 7,089,016 ("Dokko"). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

### **REJECTION UNDER 35 U.S.C. § 103**

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 ("MPEP") states the following:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Further, MPEP § 2143.01 states that “the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art” (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007)). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness.

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

**I. The Proposed Combination of Choksi, Sundar and Dokko Does Not Render Claims 1-25 Unpatentable**

**A. Independent Claims 1, 9 and 17**

With regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Choksi, Sundar and Dokko does not disclose or suggest at least the limitation of “receiving from at least one of a first access point and a first switch, at least a first messaging protocol message for establishing a communication session within the hybrid wired/wireless local area network,” as recited by the Applicant in independent claim 1.

The Office Action states the following at page 2:

Regarding claims 1, 9, and 17. Choksi discloses a method, system, and machine readable storage for providing bandwidth management in a hybrid wired/wireless local area network (Abstract, column 4 lines 18-26), the method comprising:

receiving from at least one of a first access point and a first switch, at least a first messaging protocol message (call admission request is submitted- Column 7, Lines 5-15 and 33-41);

Initially, the Examiner is reminded that the Applicant's claim 1 relates to a method for providing bandwidth management in a **hybrid wired/wireless local area network (LAN)**. However, the Examiner is relying for support on Choksi, which discloses a method and system for managing real-time bandwidth requests in a **wireless network** that includes receiving a request for a connection for bandwidth of a cell of a wireless network. See Choksi at Abstract. In this regard, **Choksi relates only to wireless cell networks and does not relate to a hybrid wired/wireless LAN.**

With regard to the first claim limitation stated above, the Examiner is relying on the following citations from Choksi:

Referring to FIG. 3, the method begins at state 160 in which the bandwidth request control is idle while there are no requests to be processed. In response to a bandwidth request for a connection, idle state 160 transitions to step. At step 162, the type of the request is determined. The request may be a handoff request, a call admission request, an additional bandwidth request or any other suitable type of request for bandwidth for a wireless connection. Proceeding to step 162, a QoS policy is retrieved for the connection. The QoS policy may be retrieved from a SLA or other suitable database or node of the communications network 10.

FIG. 4 illustrates a method for bandwidth allocation control in accordance with one embodiment of the present invention. In this embodiment, as previously described in connection with FIG. 3, a single bandwidth request control is used to process call handoff, call admission and additional bandwidth requests. The bandwidth request control includes the call bandwidth and call handoff admission controls 72 and 74 and/or the functionality, thresholds and queues of the controls 72 and 74.

See Choksi at col. 7, lines 5-15 and 33-41. Figure 3 of Choksi illustrates a method for queuing a bandwidth request for allocation in a wireless cell network, and Figure 4 of Choksi illustrates a method for bandwidth allocation control within the wireless cell network. The Applicant points out that **Choksi, including the above citation of Choksi, does not disclose or suggest receiving by an access point or a switch, a messaging protocol message for establishing a communication session within the hybrid wired/wireless LAN,** as recited in Applicant's claim 1. In fact, **Choksi does not disclose or suggest any signal processing with regard to a messaging protocol message or, for that matter, with regard to an access point or a switch within a hybrid wired/wireless LAN,** as recited in Applicant's claim 1. Sundar is also silent as to receiving from an access point or a switch, a messaging protocol message for establishing a communication session within a hybrid wired/wireless LAN, as recited by the Applicant in independent claim 1.

The Examiner concedes the above deficiencies of Choksi and Sundar, and then relies for support on Dokko to teach "a messaging protocol message for establishing a communication session within a hybrid wired/wireless LAN":

Dokko teaches a channel allocation system and method for radio data calls having different bandwidths (title and abstract). He teaches in column 4 lines 18-21 and 28-33 that a call set up request is received from the call processing unit 11 (which is a part of the mobile switching system 10 as shown in figure 1), and after the data call connection request is received, the system determines the required/allocated bandwidth based on the service option of the corresponding data call. Therefore, *the data call connection request received from the call processing unit in the mobile switching system clearly reads on the claimed first messaging protocol message for establishing a communication session received from at least one of a first access point and a first switch.*

See Office Action at page 4 (emphasis added). Initially, the Applicant notes that Dokko is related to a method for making radio data calls using a mobile unit. In this regard, Dokko is not related to any processing of messaging protocol messages within a hybrid wired/wireless LAN. In addition, referring to Dokko's Fig. 1, the call set up request is not received from the call processing unit, as alleged by the Examiner; the call set up request is inputted from a mobile subscriber (i.e., a user) using the mobile subscriber processing unit 11. See Dokko at col. 1, lines 23-27. **Dokko is deficient in several ways. Firstly, Dokko's call set up request inputted from a mobile subscriber is clearly neither a messaging protocol message, nor it is received from "at least one of a first access point and a first switch." Secondly, Dokko's call set up request inputted from a mobile subscriber is not used for purposes of establishing a communication session within a hybrid wired/wireless LAN.**

Therefore, the proposed combination of Choksi, Sundar and Dokko does not disclose or suggest at least the limitation of “receiving from at least one of a first access point and a first switch, at least a first messaging protocol message for establishing a communication session within the hybrid wired/wireless local area network,” as recited by the Applicant in independent claim 1.

Furthermore with regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Choksi, Sundar and Dokko does not disclose or suggest at least the limitation of “notifying said first access point of said allocated bandwidth using at least a second messaging protocol message,” as recited by the Applicant in independent claim 1.

The Office Action states the following at page 3:

However, Choksi discloses the allocation of resources and allowance of call admission requests, but fails to specifically disclose the notification to the first access point of the communication system to commence the connection.

Sundar discloses a call connection management system for hybrid wired/wireless (WWAN and WLAN) networks which performs call setup functions such as channel assignment based upon requests from users. During the call connection setup, initiated by, for example, a handoff scenario, the serving SSC informs the desired SSC of the desire to handoff, and once the operation is the complete, acknowledgements are returned to the initiating parties (Figure 12 - Page 6, Paragraphs 0074-0075).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the teachings of

Sundar with the teachings as in Choksi in order to provide users with necessary bandwidth to complete their communications and control a network so that it's bandwidth capabilities are not exceeded.

The Examiner concedes that Choksi fails to disclose the notification to the first access point of the communication system to commence the connection, and then relies on Sundar's Figure 12 and Paragraphs 0074-0075. The Applicant points out that even though Sundar, at the above citation, discloses that the service BSC informs the desired BSC of the desire to handoff, **Sundar fails to disclose or suggest that an access point is notified of allocated bandwidth using a messaging protocol message, as recited by the Applicant in claim 1. The Applicant is confused as to why the Examiner is relying on Sundar as Sundar clearly does not disclose or suggest any access point notification. In fact, Sundar also does not disclose any allocated bandwidth notification, or the use of messaging protocol messages for purposes of allocated bandwidth notifications.** Dokko does not overcome these deficiencies of Sundar.

Therefore, the proposed combination of Choksi, Sundar, and Dokko does not disclose or suggest at least the limitation of "notifying said first access point of said allocated bandwidth using at least a second messaging protocol message," as recited by the Applicant in independent claim 1.

Accordingly, the proposed combination of Choksi, Sundar, and Dokko does not render independent claim 1 unpatentable, and a *prima facie* case of obviousness has not been established. The Applicant submits that claim 1 is allowable. Independent claims 9 and 17 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 9 and 17 are also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2-8, 10-16 and 18-25**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 9 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Choksi in view of Sundar has been overcome and requests that the rejection be withdrawn. Additionally, since the additional cited references do not overcome the deficiencies of Choksi, claims 2-8, 10-16 and 18-25 depend from independent claims 1, 9 and 17, respectively, and are, consequently, also respectfully submitted to be allowable based on the above arguments.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-8, 10-16 and 18-25.

In general, the Office Action makes various statements regarding claims 1-25 and the cited references, which statements are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-25 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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